*THE HON'BLE SRI JUSTICE P.S. NARAYANA

+W.P.No.8041 of 1997

% 9-12-2004

Duvvur Raja Gopala Reddy, S/o Raghava Reddy
Siddavaram Village, Kota Mandal,
Nellore District.

..... PETITIONER

AND

$ The District Collector
Nellore District and another

.....RESPONDENTS

<GIST:

>HEAD NOTE:

! Counsel for the petitioner : Mr.P.Sridhar Reddy

^ Counsel for the respondents : Government Pleader for Revenue

?CASES REFERRED :

Nil

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 8041 of 1997

Between:

Duvvur Raja Gopala Reddy, S/o Raghava Reddy
Siddavaram Village, Kota Mandal,
Nellore District.

..... PETITIONER

AND

1 The District Collector, Nellore,
Nellore District.
2 The Mandal Revenue Officer,
Kota Mandal, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, writ or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondents in implementing the order of the Settlement Officer, Nellore in SR No. 2/11/(a)/60 GDR, Date 12/6/1970 in respect of 62 cents of land in Survey No.85/6 and 47 cents of land in Survey No.88/1 situated in Sidddavaram Village, Kota Mandal, Nellore District and the further action of the respondents in seeking to dispossess the petitioner from the said land in order to induct 3rd party landless poor persons treating the same as Government land as illegal, arbitrary, unjust, without jurisdiction and violative of the principles of natural justice and Article 300-A of the Constitution of India and consequently direct the respondents to implement the order of the Settlement Officer dt.12/6/1970 referred to above in the Revenue Accounts in respect of the above said extents of land.

Counsel for the Petitioner:MR.P.SRIDHAR REDDY

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.8041 of 1997

ORDER:-

The Writ Petition is filed for a writ or direction more particularly one in the nature of writ of mandamus declaring the inaction of the respondents in implementing the order of the Settlement Officer,

Nelore in SR.No.2/119(a)/60 GDR dated 12-6-1970 in respect of 62 cents of land in Sy.Nos.85/6 and 47 cents of land in S.No.88/1 situated in Siddavaram village, Kota Mandal, Nellore District and the further action of the respondents in seeking to dispossess the petitioner from the said land in order to induct third party landless poor persons treating the same as Government land as illegal, arbitrary, unjust, without jurisdiction and violative of the principles of natural justice and Article 300-A of the Constitution of India and consequently direct the respondents to implement the order of the Settlement Officer dated 12-6-1970 referred to above in the Revenue accounts in respect of the above said extents of land and to pass such other suitable orders.

The case of the petitioner is that the Settlement Officer granted ryotwari patta under Section 11(a) of A.P. Estates (Abolition and Conversion into Ryotwari Patta) Act, hereinafter in short referred to as “Act” in respect of A, B, C schedule lands in the proceedings SR No.2/11(a)/60 GDR, dated 12-6-1970. The Settlement Officer declared in his order that the applicant Smt.Duvvur Mangamma who is the grand mother of the petitioner, duly established that herself and her predecessors have acquired occupancy rights for the schedule lands by virtue of long and continuous possession and also by payment of rents to the land holder and accordingly she was granted a ryotwari patta under Section 11(a) of the Act in respect of various

extents. It is also stated that no Revision had been filed against the said order either by Government or by any other person and the said order became final. Subsequent to the death of his grand mother and his father, the petitioner has been in possession and enjoyment of the lands covered by the ryotwari patta and he has been regularly cultivating the said extent and enjoying the proceeds received therefrom. It is also stated that though the orders of the Settlement Officer had been implemented relating to other lands, for an extent of 62 cents of land in S.No.85/6 and 45 cents in S.No.88/1 of Siddavaram village the same had not been implemented and inasmuch as there was threat of dispossession, the present Writ Petition was filed. It is also stated that several representations had been made for the implementation of the order of the Settlement Officer.

The 1st respondent filed a counter affidavit stating that one Rayapu Polaiah s/o. Chengaiah of Siddavaram village had represented on 5-2-1996 that he was granted 'D' Form patta for an extent of Ac.0-62 cents in S.No.85/6 and Ac.0-47 cents in S.No.88/1 of Siddavaram village in F.Dis.No.2530/71 dated 25-11-1961 and one Duvvuru Rajagopalareddy had encroached the said land and requested to restore the possession of the land. Similarly Duvvuru Rajagopalareddy s/o. Raghava Reddy of Siddavaram village also represented to the Mandal Revenue Officer, Kota on 8-4-1996 stating

that the land in S.No.85/6 measuring Ac.0-62 cents in S.No.88/1 measuring Ac.0-47 of Siddavaram village was granted ryotwari patta along with other lands in the name of his grand mother viz., Duvvuru Mangamma by the then Settlement Officer on 12-6-1970 and after her demise he got the land in succession being the next legal heir and requested for implementation of the ryotwari patta in the village records. The Mandal Revenue Officer, Kota enquired both the petitioners and during the enquiry it is noticed that the land under dispute is in possession and enjoyment of Duvvuru Rajagopal Reddy, grand son of Smt.Duvvuru Mangamma and the ryotwari patta was not implemented in the village records but D Form patta granted in favour of Bayapu Chengaiah in F.Dis.No.2530/71 dated 25-11-1961 was implemented in 10(1) account of Siddavaram village under Patta No.68 along with other lands granted to him in Siddavaram village. The then Sub-Collector, Gudur had observed that the lands assigned in favour of Rayapu Chengaiah were encroached by Duvvuru Rajagopalareddy and Ramachandrareddy and that the enjoyment of assigned land by a person other than the original assignee attracts the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act 1977 and directed the Mandal Revenue Officer, Kota to take immediate action to evict the encroachers and to restore the lands to the poor scheduled caste Rayapu Polaiah, son of the deceased assignee. As per the adangal for Fasli 1396 Rayapu

Chengaiah is noted as enjoyer but in subsequent faslies D.Rajagopalareddy, the writ petitioner, is noted as enjoyer whereas the name of the assignee's son R.Polaiah is noted as pattadar. Rayapu Polaiah was given pattadar pass book also under Record of Rights Act for the said lands in dispute. Several other details relating to the enquiry also had been specified in detail in the counter affidavit.

Even as per the stand taken in the counter affidavit filed by the 1st respondent there is no dispute or controversy that the settlement patta was granted in favour of the grand mother of the petitioner and the petitioner has been in possession of these properties. The mere fact that D Form patta was granted by the Government would not come in the way for the reason that when once the Settlement Officer had conducted enquiry and granted patta under Section 11(a) of the Act it is needless to say that the right of the Government to assign the land would automatically cease. In view of the same, the stand taken by the 1st respondent in the counter affidavit cannot be sustained. This Court also granted interim direction not to dispossess the petitioner pending disposal of the Writ Petition. In view of the facts and circumstances and also the admissions made in the counter affidavit filed by the 1st respondent, the petitioner is entitled to the relief as prayed for. It is also stated that a representation for implementation of this extent of land also is pending. The said

representation shall be disposed of at an early date.

Accordingly, the Writ Petition is hereby allowed. No order as to costs.

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P.S.Narayana.,J

Date : 9-12-2004

L.R. copy to be marked : YES / NO

AM

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Ninth day of December Two Thousand and Four.

REGISTRAR

To

One fair copy to the Hon'ble Mr.Justice P.S. Narayana (for his Lordship's kind perusal)

1 The District Collector
Nellore District.
2 The Mandal Revenue Officer,
Kota Mandal, Nellore District.

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